IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3644 OF 2005

Venkitchallapathi Srinivasan
Iyer ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr.K.S.Patil i/b Mr.Deepak Girme for the Applicant
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JUNE 24,2005.

P.C.:

1. Heard Counsel appearing for the parties. This application is for grant of anticipatory bail. An offence has been registered against the Applicant under Section 420 of the Indian Penal Code. The F.I.R. is filed by the Complainant Rajesh Jain. The case made out in the F.I.R. is that he has started a firm which deals with computers. His case is that he and his brother are looking after the business and they are doing the work of data conversion. His case is that his friend introduced him to the Applicant. The case made out by the complainant is that the Applicant assured him that he will arrange to get the work of data conversion from I.T.Company by the name Newton M.P.Technologies Ltd. His case is that it was agreed that the Applicant will procure the work to the tune of Rs.2.40 crores for the complainant and a sum of Rs.15,00,000/- was paid by the complainant to the Applicant. The grievance in the complaint is that the Applicant has not provided the complainant with the work and he has not repaid the amount of

Rs.15,00,000/- taken by cheque.

2. The case made out by the Applicant in this application is that out of sum of Rs.15,00,000/- paid by the complainant to him, a sum of Rs.11,00,000/- have been paid by the Applicant by Account Payee cheque to the Company Newton Ampi Technologies Limited. According to the case of the Applicant in fact the complainant acted as a broker in the transaction and the Memorandum of understanding was executed by the Applicant in favour of one Milan Mehta, a Proprietor of Shreeji Infocom. It is stated that the sum of Rs.15,00,000/- is paid by the said company to the Applicant by a cheque. According to the case of the Applicant a sum of Rs.4,00,000/- has been paid by a cheque by the Applicant to the complainant by way of commission in the transaction.

3. The learned A.P.P. has relied upon the supplementary statement of the complainant in which he has stated that the cheque in the sum of Rs.4,00,000/- has been received by him but that is on account of a separate loan transaction between him and the complainant.

4. The learned Sessions Judge has rejected the application of anticipatory bail made by the Applicant on the ground that there are two other similar crimes registered against the Applicant. The ground given for rejecting the application is that if the anticipatory bail is granted there will not be any

possibility of recovering the sum of Rs.15,00,000/-. The Applicant has placed on record a certificate dated 4th June 2005 issued by Dr.Kaushal Pandey, Cardiothorasic & Vascular Surgeon, Wockhardt Hospital Ltd.,Mumbai in which he has stated that the Applicant has been operated upon on 1st June 2005 for Coronary Artery Bypass Graft surgery and he has been advised to take rest for one month from the date of discharge. The learned A.P.P. placed on record another certificate issued by the same Doctor dated 22nd June 2005 and it is stated that in the first week of July 2005 the Applicant will undergo check up when final fitness certificate will be given to him.

5. After having considered the allegations made by the complainant in the F.I.R. as well as in the supplementary statement, it appears to me that the dispute between the parties appears to be a contractual dispute. The assertion made in the application is that out of Rs.15,00,000/- the Applicant has paid Rs.11,00,000/- to the Newton M.P.Technologies Ltd. The dispute as regards an amount of Rs.4,00,000/- is whether the said amount was paid by the Applicant on account of transaction in dispute or on account of alleged loan transaction between the parties. Considering the allegation made by the complainant, I am satisfied that this is not a case which requires custodial interrogation of the Applicant especially when the Applicant has very recently undergone a By-pass heart surgery. Accordingly, a case is made out for grant of anticipatory bail.

6. Hence I pass the following order :

i) In the event of arrest of the Applicant in connection with C.R.No.151 of 2005 registered at Pimpri Police Station, Pune, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.50,000/- (Rupees fifty thousand only) with one or two local sureties in the like amount.

ii) The bail is granted subject to the condition that after the Applicant is given final Fitness Certificate by Dr.Kaushal Pandey, Cardiothoracic & Vascular Surgeon, he will attend the concerned Police Station for the purpose of investigation as and when called upon to do so and he will cooperate with the Investigating Officer for the purpose of investigation.

iii) The Applicant will be enlarged on bail only on depositing of his passport with the Investigating Officer.

iv) This order will enure to the benefit of the Applicant till the charge sheet is filed.

. Parties to act upon an authenticated copy of this order.

JUDGE